G. R. S. 59 GPB—15,000—20-12-13

GENERAL AND REVENUE SECRETARIAT.

1893
~~191~~
(Courts)

File No. 179

Serial Nos. 1—14

Papers Filed.

Counterman
Dw

Month November 1894.

SUBJECT.

Resignation of mr Thimmakrishna Rao
Munsiff of Hassan.

Indexed
Mrs Masaki

PREVIOUS REFERENCES.	LATER REFERENCES.

SECTION Courts (General Serial No. 31.)

1894.

FILE No. 1799/93-6 From The Chief Judge of Mysore

SERIAL No. 1

To The Dewan of Mysore

Dated 10 February

Despatched

Received

Enclosures No.

General No.

No. A

Reporting for the orders of Govt the conduct of Mr Shivanakrishna Rao in having purchased Benami a Casuarina plantation which was put up at an auction sale held in execution of a decree passed by him while Munsiff of Kolar

Ansd 13503-5/2nd dt 13-2-94

Notf No 13569/387 dt 14.2.94.

2

(1)

Bangalore 10 February 1894

No A

From

Raja Sivama Pranna
T. R. A. Thimboo Chetty Esqre
Chief Justice of Mysore

To

Rajya Dhurandhara
Sir K. Sheshadri Iyer C.S.I
Dewan of Mysore

Sir

On the 3d of this month I received a note from the Madras enclosing for my information an application made by a Mr Davids late of the Public works department to the Deputy Commissioner making certain statements regarding the sale of the Casuarina Plantation and implicating Mr Munisuff Jumma-Mubhai Rao to have purchased the estate Benami for almost a trifle

Mr Davids affidavit and the sworn
testimony of one Venkata Rao a Mucha
on the Nidas Deputy Commissioner's Office and
the bidder and purchaser of the plantation
at the auction sale held by order of
Mr Timma Krishna Rao in execution
of a decree of his Court also forms
part of the enclosure

2 Venkata Rao has stated that
the Munsiff desired him to purchase
the property for him and paid
the money, adding that he has
since put up a hedge round it
the cost of which was also paid
by the Munsiff

3 I sent the papers to my
Colleagues for their opinion suggesting
for their consideration that the
matter be reported to Government

and departmental enquiry held into the alleged serious negligence and misconduct on the part of the Munsiff

Mr Ramachendra Iyer deemed an enquiry unperative, but suggested that the Munsiff's explanation may be obtained before proceeding further and Mr Krishna Rao fell in with Mr Ramachendra Iyer his suggestion

5 I accordingly wrote to the Deputy Commissioner of Kadur on the 4 requesting him Primarily to obtain the Munsiffs Explanation proposing certain questions suggested by the facts contained in the papers already before me.

6 Mr Thimma Krishna Rao

admitted having ordered the sale
of the property and its purchase
by Venkata Rao but denied all
other circumstances which connected
him with the purchase personally.

7 I consulted my colleagues
on the step next to be adopted
and they both agree that an enquiry
into the truth of the allegations is
a necessity, though regard to the
mode in which and the agency
by which that enquiry should
be conducted there is a difference
of opinion The Krishna Murthi
would leave the preliminary enquiry
in the hands of the Deputy
Commissioner

8 Both of my Colleagues are not
prepared to recommend the suspension

from office of the Munsiff at the stage in which the matter now stands but Mr Ramachendra Iye suggests that the Munsiff should be asked to obtain less and to report himself to the Court

9 To me however it seems desirable that according to precedents the enquiry into the alleged misconduct of the Munsiff should be held at Bangalore by one of my colleagues whose report with the opinion of the remaining judges may be submitted to Government for their final orders under the provisions of Section 20 of the Mysore Civil Courts Regulation

10 It seems also necessary in my opinion that pending the enquiry the Munsiff should be relieved of

his work He ought not to be permitted
to discharge the responsible duties
of Munsiff and Magistrate while
a serious charge of misconduct committed
as a Judge is pending investigation;
and if in the opinion of Government
his suspension from office for this purpose
is deemed necessary I beg that orders
may be passed accordingly under
Section 19 of the Mysore Civil Courts Regulation
of 1883

11 I propose that Mr Thimma
Krishna Rao be directed to
come into Bangalore at once and
to report himself to the Registrar
awaiting further orders of this Court.

12. I enclose for your perusal
and obliging return all the papers

in original

I have the honor to be

Sir

Your most obed. Servt

A. V. Thimbor Chetty

Chief Justice of Jaffna

Confidential

Read

From The Chief Justice

Sir In acknowledging the receipt of your letter No. of the enclosures which are herewith returned

Order

The Govt. directs that Lt. K Rao Asstt. Magt. of Hassan be relieved at once of his present duties by Lt. Chandra Sekhara Jois B.A.B.L. Asst. Comr. who is appointed Asst. Magt. of Hassan & invested with the powers of a Magt. of the

9

SECTION Courts

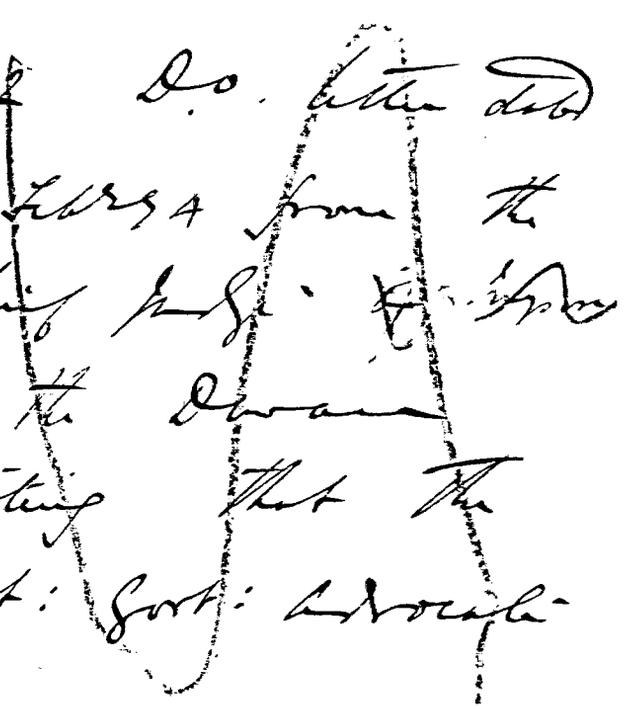
FILE No. 179 of 93

SER'AL No. 2 Read

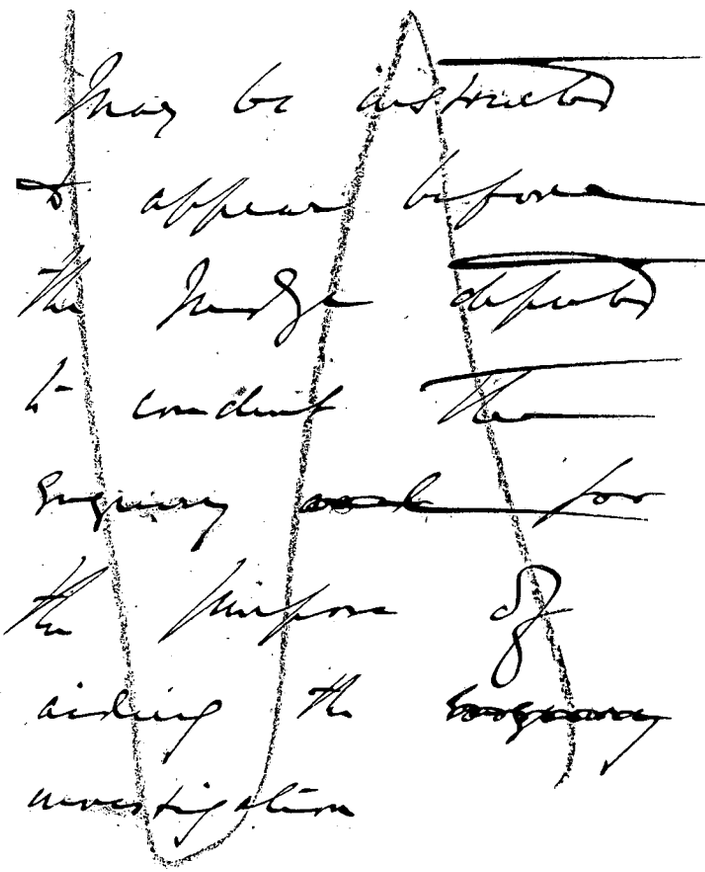
(2)

Letter No. A dated 10 Feb 1894 from Rt. J. R. A Thumbachetiar, Chief Judge of Mysore & Sir. K. Sheshadri Iyer, Dewan of Mysore forwarding for the information of the Govt certain papers regarding the disappearance of Kolar Inspector Mr. M. Timmaraya and Mr Timmappa of Mattoor on having purchased Bunnoo for almost rifle which he was murdered at Kolar Cattaroya Mantaiya Sirastadar at Hirgasandra or Tippasandra Village of Kolar Taluq at an auction sale held in the execution of a Decree

pursuant by him against
a Mr. S. David in
favour of Mr. T. T. Lewis,
and suggesting that
an enquiry into
the alleged misconduct
of Mr. Timmakrishna
Rao should be
held at Bangalore
by one of the Judges
of the Chief Court
under S. 20 of the
Mysore Civil Courts
Regulation



2 Do. letter dated
13 Feby 94 from the
Chief Judge [illegible]
to the Dewan
stating that the
letter [illegible]



may be instructed
to appear before
the Judge deputed
to conduct the
Inquiry and for
the purpose of
aiding the Inquiry
investigation

No 13503-5' 13-2-91
2924 14
Elfile

Order

The Govt direct
that Mr. A ... the
Ins Inspector of 1st Class
Inspector of Stores
be relieved at once
of his present
duties handing over
charge to
A.S. Minister of
his Govt. directed
to depart ...

forthwith to ~~the~~ appear before the ~~Registrar of the~~ Ch: Ct. ~~awaiting his further orders~~. for the purpose of ... under S 20 of the Civil Ct. Reg ...

2 Mr. K.S. Chundrasekhara Iyer Ac. 182 Pro Asst Commr appointed to act as Munsiff of Hassan during the absence of Mr H. Sannakrishnaiah Rao or until further orders & join duty forthwith

3. Mr. K.S. Chundrasekhara Iyer Munsiff of Hassan is invested with the powers of a Magistrate of the 1st class under S. 12 of the code of Cr Pro

~~3. The asst~~ ... 14/2/94

To ~~Registrar~~ ... To Hassan ...
... the Comptroller ...
13.2.94

13

SECTION Courts (3)

FILE NO. 179 of 93

SERIAL NO. 3

Notification

No 13569 of 14-2-94

J A 387-92 14

Mr K. S. Chendrasekharam Iyer, B.A. B.L. Pro 67 Apprs to Commr is appointed to act as Munsiff of Hassan, during the absence of Mr K. Timma - Krishna Rao, or until further orders. To join duty forthwith.

2 Under section 12 of the Code of Criminal Procedure, the said Mr K. S. Chendrasekharam Iyer B.A.B.L. is hereby invested with the powers of a Magistrate of the 1st Class.

BO

Chief Secy

* Note on a subsequent letter from Chief Secy regarding pay &c it has been stated that there is no vacancy in Hassan and he will be under instruction as Munsiff

(Who has been directed to report himself to the Chief Court at Bangalore)

No 13570
J A 387-92

Copy to the Registrar of the Chief Court, for the info of the Judges of the Chief Court.

No 13571
J A 387-92

Copy to the Dy Commr & District Magistrate, Hassan

No 13572
J A 387-92

Copy to Mr Chendrasekharam Chief Secy

B. O.

Chief Secy

mkk
14/2/94

To - The Compiler Mysore Gazette for publication

14

SECTION Courts.

(General Serial No. 181)

FILE No (4) 179 of 93

SERIAL No. 4 From

OFFICE OF THE
12994
24 FEB. 94
G 4366
INDIA OFFICE

The Asstt Govt Agent
in Mysore

To

The Chief Secretary to the
Govt of Mysore

Dated
Despatched 24th February 1894
Received 24/2

Enclosures No. 3

General No. 205
No.

Submitting copies of the correspondence in the matter of the enquiry into the Conduct of Mr M. Theina Krishna Rau & asking instructions of the Govt on the subject

Recommended
Please let me have the necessary
Rescr before noon Sunday

Papers sent
in duplicate 10 AM 25/2/94

File —
I have no instructions to give. Why does the Chief Ct want the Govt. advocate's presence in an enquiry which the latter makes it to do on its own motion? Let him hold on its own motion.
2/3/94

See Mysore Secretariat No 211 of 25/2/94

15 Asstt Govt Advocate's
Office 24th February 96

No. 205

En No: 3

(4)

From

The Assistant Govt. Advocate
in Mysore

To

The Chief Secretary to the
Govt of Mysore

Sir,

I have the honor to enclose herein copies of the correspondence in the matter of the enquiry into the Conduct of Mr H. Thomas Christ Raj and award instructions on the Subject

I have the honor to be
Sir,
Your most obedient servant.

S Ramaswamy

Asstt Govt Advocate

No 3915
2697

Bangalore
21st February 1894
Confidential

From

The Registrar of the
Chief Court of Mysore

To

The Assistant Govt. Secretary

Sir

I am directed to forward
copy of Por of Govt No 13503-5
of 13th Instant, directing an
Enquiry into the Conduct of
Mr H Thimma Krishna Rao,
Munsiff under Section 20 of the
Civil Courts Regulation, and
to request that you will be good
enough to conduct the prosecution

We

The inquiry will be held before
one of the Judges of this Court
on a date to be fixed hereafter

2. I am to enquire whether
Saturday or Monday next, will
suit you, and whether there
will be sufficient time to enable
you to place yourself in
Communication with the
Deputy Commissioners of
Kolus, and to do the needful.

3. The papers connected with
the Case are with me and may
be inspected by you at any time.
You will also be furnished
with Copies of such of the papers

as

as you may require.

A Summonses will be issued to such of the witnesses as you may name on list being furnished by you

I have &c=

/Signed/ S. R. Subrayen
R. Cogisbras

Copy

S [redacted]
Asst Govt Advocate

19

Asstt Govt Advocate's Office

No 203 (4/67) 23d January 1894

Enclosure

From

The Asstt Govt Advocate

on Mysore

To

The Registrar

Chief Court

Sir,

With reference to your letter No 3915 of 21st August, I have 2697

the honor to inform you that I

placed myself in communication

with the Dy Commr of Kolar

& beg to state that he informs

me that without a local inquiry

he cannot furnish me with

any necessary information

and

and he declines to hold a Local
enquiry unless he is directed
by the Chief Court. I therefore
request that you will be good
enough to bring this to the notice
of the Chief Court in View to a
Local enquiry being directed
by the Chief Court to be held
by the Dy. Commr of Kolar
District (without which I am
not in a position to place the
facts before the Chief Court
or to furnish a list of witnesses

I have &c.
(Sd) S. Ramaswamy Iyr.
Asstt Govt Advr.

Copy

S Ramaswamy
Asstt Govt Advocate

Bangalore 23d Febry 94

No 3956
2722
J

(4)

Enclosure b sele

To

The Dy Commr
Bolar

Sir

The Asst Govt Advocate having reported that without an order from the Chief Court you have declined to hold a local enquiry and furnish him with any information regarding the Case pending against Mrs H. Thimma Krishna Row in connection with the Sale of Mrs J Davids Casuarina Plantation, I am directed to request that you will be so good as to render all assistance to him in the matter

Matter of Collecting evidence

I have &c.

Sd/ S. R. Subrayen

Registrar

No 3957/2723 Bangalore 23d Febry 94

Copy forwarded to the Asstt Govt Advocate with reference to his letter No 203 of 23d Instant

By order

Sd/ S. R. Subrayen

Registrar.

Copy

S. Kammaran

Asstt Govt Advocate

26

G.1529

SECTION C (General Serial No. 30) 3718

1894/95

FILE No. 17 From 93

SER'AL No. 5

The Registrar of the

Chief Court of Mysore.

To

The Chief Secretary

to the Dewan of Mysore.

Dated 18 Sept/94

Despatched 18

Received 19/9/94 + 500

Enclosures No. three and records sent separately with one process Regr.

General No. 1757

No. 68

Forwards copies of opinions recorded by the Chief Judge and his Colleagues in the matter of the enquiry held into the conduct of Dewan Seshna Krishna Row, under the provisions of Section 20 of the Mysore Civil Courts Regulation

Subdt to Chief Secty

19/9/94

Genl

18.9.94

Central Jail Press, Bangalore.—25-4-94.—500.

No. 1757 In three
68 and records sent
separately with
one Process Register

27

(6)

Bangalore 18th September 1894.

From

The Registrar of the
Chief Court of Mysore

To

The Chief Secretary to the
Dewan of Mysore.

Sir,

With reference to the Proceedings of Government No 13503-5 G-2924 dated 13th February 1894, I am directed to forward Copies of Opinions recorded by the Chief Judge and his colleagues, in the matter of the enquiry held into the Conduct of Munsiff Timma Krishna Row, under the provisions of section 20 of the Mysore Civil Courts' Regulation

The entire record of the Case, with a Perist is herewith submitted.

I have the honor to be,
Sir,
Your most obedient Servants.

H Rajaratnam Mud.
Offg. Registrar
doing duty as Registrar.

HR

6a

In the Chief Court of Mysore at Bangalore
Monday the 17th day of September 1894

Present

Rajah Dharma Prawna P. R. A. Thumboo Chetty Esq.
Chief Judge

A Ramachandra Iyar Esqure, Judge

and

P. N Krishnamurti Esqure, Judge

In the matter of the enquiry into the conduct of H. Timmakrishna Rao

Opinion

The Chief Judge :- In February last, it was brought to the notice of this Court, that a certain plantation in the Kolar Taluk, which was sold in execution of a decree passed against a Mr. Davids, by order of the Munsiff Mr. Timma Krishna Rao, was purchased benami by the Munsiff himself, in the name of one Venkati Rao, a Mushi of the Kolar Deputy Commissioners Office.

The

The matter was reported to Government, who, in their Proceedings No. 13503-5, dated 13th February 1894, G.2924 directed, that an enquiry should be made into the Munsiff's conduct, under the provisions of Section 20 of the Mysore Civil Courts' Regulation.

2. The enquiry was accordingly made by Mr. Justice Ramachandra Iyer, and the case was heard finally before the Full Bench.

3. The learned Judge, who made the enquiry, was of opinion, that the Munsiff and not Venkat Rao, was the real purchaser, for the following reasons :—

(I) That the facts elicited by the evidence adduced in the case supported the complaint, that the Munsiff himself purchased the plantation through Venkat Rao.

(II) That, taking into consideration Venkat Rao's means and position and his inability to account satisfactorily as to how he became possessed of funds, it was evident that he could not have purchased

the

the plantation on his own account.

(III) that the Statement Venkat Rao made before the Deputy Commissioner, and which was confirmed by what he stated before the Amildar (Mr Bema Hammantayya) three weeks afterwards, showed that the Munsiff had requested Venkat Rao to buy the land in his name, that it was the Munsiff who paid for it, and who subsequently paid for fencing, ditching, and other expenses and that, as the Munsiff was the owner, the receipt for the purchase money had also been delivered into his hands

(IV) that, when Mr Davds threatened to complain of the Munsiffs purchase, there was an attempt at compromise, and, according to the evidence of 2 witnesses Venkoba Rao, Registration Head Clerk, Venkat Rao assured him that he could not recover the property without the consent of the Munsiff, to whom both Venkoba Rao and Venkat Rao wrote about the matter

(V.) that the facts deposed to by the

the Amildar, that, when he had a talk with the Munsiff, about the arrear of assessment that was due on the land, the latter requested the former to send the Shanbog and he promised to get the payment made by Venkat Rao, showed that the Munsiff was the owner of the land

(V) That the evidence of the witness Narayana Rao, Revenue Head Record Keeper, Deputy Commissioner's Office, also showed, that the Munsiff was really interested in the plantation; that evidence was to the effect that, when the witness and Munsiff inspected the plantation once the Munsiff requested him to get a better man to work in the plantation than the one whom Venkat Rao had engaged and that witness accordingly engaged one Nunjay Gowdah.

(VI) That the non-production of the receipts for the purchase money and the Court Sale Certificate is open to the suspicion that they are withheld because they bear the Munsiff's initials or some remark or note made by him on those documents

(VII) That the allegations of Venkat

Rao

Rao that he made the Statements before the Deputy Commissioner and Amildar through pressure and undue influence, and the insinuation of the Munsiff, that both the Deputy Commissioner and Amildar were not well disposed towards him, were without any foundation

(IX) That the demeanor of Venkat Rao and of the Duffadar and peons of Munsiff's Court, who are said to have worked on the plantation or occasionally supervised the work, did not impress the learned Judge favorably and that they seemed to him to be reluctant to disclose the truth

4 The whole evidence adduced in this case, read with the light of the remarks made by the learned Judge in his reports dated 12th June and 11th August 1894, leaves no doubt whatever as to the correctness of the conclusions arrived at by the learned Judge - Muchi Venkati Rao who when first questioned by the Deputy Commissioner freely and voluntarily admitted that the

purchase

purchase was made for and on account of the Munsiff, now tries to get behind those admissions. He has, apparently been gained over by the Munsiff, whose dependent he was and through whose recommendation he got the post of Mudki. The evidence of Mr. Madiah and his revenue Sheristadar and Head Accountant, places the matter beyond doubt and disproves the alleged use of threat or undue influence of any kind. The letters, dated 18 and 29th December 1893, sent by the Munsiff to Mr. Madiah from Kaspan show that they were on the best of terms both before and after Mr. Timma Krishna Rao left Kolar. The evidence of Mr. Rama Hanumanthiah also shows that he and the Munsiff were on visiting terms and that they dined in each others houses. It is too much to believe that there was a combination on the part of the Deputy Commissioner his assistant and two other Officials of his own Cutcherry to punish the Munsiff. It is in the highest degree improbable that an Officer of Mr. Madiah's standing would have stooped to do that which has been insinuated, so recklessly

and

and without the slightest ground. It is very much to be regretted that the Munsiff has thought fit to cast unfounded aspersions on the character of the Officials above named. He has made his case worse by suppressing the real facts and by withholding production of the receipts and the letters he received from Venkat Rao; and what was done by him, both before and subsequent to the purchase, proves beyond doubt that he was interested in the property purchased and that he was the real purchaser.

5 The plantation is about 4 acres persistent assessed at Rs 8. There were about 736 Casurina trees, (about 150 small ones and the others about 3 years old,) besides 21 Hongai trees about 30 or 40 years old. The trees alone are valued at about Rs 350 by the Amildar. The land with the trees may be roughly estimated to be worth about Rs 500. It was purchased at Court Sale for Rs 135-8- From the evidence of the Nazer (15 witness Arunachalla Mud.) it appears that, when the plantation was first attached, it was attached without any specification of the trees. The omission was rectified on the 2nd proclamation of

sale

sale dated 22nd July 1892, but the Annual Valua-tion of the trees was still as low as Rs. 25-. The Munsiff sent his own Nazir who reported to the Munsiff orally that the plantation was worth Rs. 150. Notwithstanding this increased valuation by the Nazir, the estimated value was not corrected in the proclamation; and the property after being cried out both on the spot, and in the Court house for an unusual period of 5 days was knocked down in the name of Venkat Rao for Rs. 138-8-, a sum which is below the estimated value which the Nazir himself gave for the private information of the Munsiff. The proceedings do not show that any written order was given to the Nazir to inspect the plantation and to ascertain the value nor is there any written report by the Nazir. The Munsiff appears to have deputed the Nazir privately to get the information, to enable him to give instructions to Venkat Rao as to what sum he should bid for the property. The 6- and 7 witnesses Venkat Reddi and Munur Gondah say that they were informed by the Nazir that the Munsiff wanted to buy the plantation - Although the Nazir denies this, their Statement

seems

seems probable from the admitted fact that the Munsiff deputed the Nazir privately, previous to the sale to get him some information as to the probable value of the plantation The said witness and the 8-witness Hadu Khatti state that they actually saw the Munsiffs peons working on the plantation and giving directions to the coolies It is not likely the Munsiffs peons would have taken the trouble to go to the plantation and to work or superintend the work gratuitously & a poor muchi like Venkata Rao owned the plantation As to the credibility of the 7th and 8-witnesses the learned Judge who examined them has noted that they gave their evidence in a straightforward manner and appeared to be honest and reliable witnesses. There is therefore no good reason to distrust them. They are also corroborated by the 16th witness Audinarna Iyar who owns land near the plantation The Duffadar and the peons, examined as 12 13 and 14th witnesses, deny having worked on the plantation but, as remarked already, they were reluctant to speak

the

The truth -

6 Mr Davids the Complainant, who was examined as 17 witness, states that the debt for which his plantation was sold was about Rs 233; that he held a decree against one Srinivasa Rao for Rs 210 and applied for execution; that in April 1892 Srinivasa Rao's property, including some money bonds of the value of Rs 300 were attached; that he left Kolar for Rampal to see his sick wife, and during his absence he expected his pleader would take the necessary steps to bring Srinivasa Rao's property to sale and to mandate his judgment creditor Mr Leonards debt out of the said sale proceeds and that, to his surprize he learnt that nothing was done towards execution of his decree, but that his plantation was attached and sold during his absence Mr Davids values the plantation at Rupees 1000 but it appears to be an exaggerated estimate of the value It is however,

immaterial

immaterial whether the plantation was worth Rs 4000 or only Rupees 400 — as the Munsiff, who ordered the sale was prohibited by law from bidding or buying the plantation. Section 292 Civil Procedure Code strictly lays down that "no officer having any duty to perform in connection with any sale under this Chapter shall either directly or indirectly bid for, acquire or attempt to acquire any interest in any property sold at such sale". The Munsiff has, by purchasing the plantation for himself through Venkata Rao, acted in violation of a positive rule of law. It is the paramount duty of a Judge, to maintain the purity of his own conscience and never to take advantage of or abuse his powers. It is a crafty device on the Munsiff's part to purchase the property in the name of another. He has, by doing so, prostituted

his

his powers, degraded his position as a Judge, and committed a grave misdemeanor thereby rendering himself unfit to continue any longer in the responsible position of a Munsiff Magistrate Munsiff Tirumakrishna Rao is accordingly found guilty of having knowingly and wilfully acted in violation of the provisions of Section 292, Civil Procedure Code, and the recommendation that will be made to Government is that he be dismissed from the office of Munsiff Magistrate with effect from the date of his suspension, ie, 19th February 1894-

True Copy
Extract
Dy Registrar

(Signed) T. R. A. Thumboo Pandy
Chief Judge

Dy Registrar done duty as Registrar

48

Enclosure to No 6

Report No. I.

The plantation is situated at distance of five miles from Kolar. Its area is four acres, (3 acres and 25 guntas being dry and 15 guntas bagayet) and it is assessed at ~~Rs~~ 8/- When it was sold by order of the Munsiff in September 1892, it contained 519 Casuarina trees and a few hongay trees and it was sold for ~~Rs~~ 135-8-- to Venkata Rau

Venkata Rau denies having voluntarily made a statement before the Deputy Commissioner of Kolar and states before me that he made the purchase with his own funds for his benefit. If this statement is creditworthy, there is of course an end of the case.

He appears to have been under obligations to the Munsiff

when

when he arrived at Kolar about 2½ years ago. And it was probably the recommendation of the Munsiff which got him the appointment he now holds. The Munsiffs wife and his wife seem to be friends as would appear from the fact that both drove together to see a Swamy, halted at the plantation on their return journey for about four or 5 hours and returned together to Kolar. If the Munsiff wished to make a purchase in the name of another, Venkata Rau would have been selected as name lender.

Venkata Rau admits that he had to discharge his fathers' debts, and that he sold his jewels for that purpose. He says that there was a balance of about Rs200/- left after all debts were discharged and that it was this money which he invested in the purchase. He

would

would not say who were his creditors, what sums were paid to them and how much was remitted to him after payments were made to them. I hesitate to believe that a man in his position purchased a plantation for Rs 135-8- and that he subsequently spent about Rs 40/- for fencing ditching &ca

He has not produced the receipts for the purchase money and the conveyance which were delivered to him by the Court

He has made a false statement either before the Deputy Commissioner or before this Court. As I entertain a doubt about my power to pass an order in the matter this is one of the questions which the Full Bench has to determine.

Three facts have been proved by three other witnesses, which seem to support the complaint. Firstly, the fact which is deposed to by the

Second

Second witness, that Venkata Rau assured him that he could not reconvey the property to the former owner without the consent of the Munsiff and that both of them wrote to the Munsiff about it. If there was reason to believe that the two men were not well-disposed to the Munsiff, the statement would of course have no value. As they appear to be his friends, the fact seems to me to be somewhat significant. Secondly, when the Amildar had a talk with the Munsiff about arrear of assessment, he requested the former to send the Shanbog and he promised to get payment made by Venkata Rau. Although it has been represented to me that the Amildar was hostile to the Munsiff since about seven or eight years, I am not prepared to hold that the Amildar has made a wilfully

false

false statement Thirdly the 12th witness Narayana Rau stated that he, Venkata Rau and the Munsiff once drove together to the plantation (a fact denied by Venkata Rau and that the Munsiff requested him to get a better man to work in the plantation than the one whom Venkata Rau had engaged.

On the other hand the small area of the garden raises a strong doubt whether it was worth the while of the Munsiff to have purchased it and if he was in any way connected with it, whether he did not assist Venkata Rau If either of them had stated this, I would certainly believe it Neither of them has asserted it and I need not dwell upon it Venkata Rau does not admit that he received any assistance from the Munsiff, and the latter does not

say that he rendered any The letters which were written by them to one another after the Munsiffs transfer to Hassan have not been produced.

(Signed) A Ramachandra Iyar

12th June 1894

True Copy

H Rajasekhara Murthy

Dy: Registrar
doing duty as Registrar

Enclosure 1 to 86

Report No 2

I have not heard the advocates inasmuch as a single Judge has no power to pass final order on the matter. As my colleagues have not had the advantage of observing the demeanor of the witnesses, I propose to make a few remarks in order that the evidence may be correctly appreciated

Muchy Venkata Row and the peons of the Munsiffs Court did not impress me favorably The impression which they produced on my mind was that they seemed reluctant to disclose the truth

Venkata Row was alleged to have made statements before the Deputy Commissioner and Amildar of Kolar which were directly opposed to the evidence he gave before the Court He was recalled and re-examined He admitted having made the statements alleged to have been made by him and he added that they had been extorted from him by threat and undue

undue influence He alleged that the
Deputy Commissioner compelled him
to implicate the Munsiff that by order
of the Deputy Commissioner the Shirastedar
dictated and the Head Accountant
wrote a statement said to have been
given by him (Venkata Row), but which
was quite opposed to what he stated
that the Shirastedar took him to the
Deputy Commissioners room and made
him affix his signature to the statement
that he refused that the Deputy Com-
missioner struck the table in anger
and threatened him with punishment
and that the Shirastedar persuaded
him in the presence of the Deputy
Commissioner to please the latter by
affixing his signature About three
weeks afterwards the Amildar took
his statement that he (Amildar)
threatened to exercise his powers as
a second class magistrate and
that he was coerced into making a
statement

Statement

The statement he made before the Deputy Commissioner, and which was confirmed by what he stated before the Amildar three weeks afterwards was to the effect that the Munsiff had requested him to buy the land in his name that it was the Munsiff who paid for it and who subsequently paid for fencing ditching and other expenses and that as the Munsiff was the owner, the receipt for the purchase-money had been delivered into his hands

Mr. Madiah deposed that he examined Venkata Row in his chambers as his name had been mentioned in the petition of complaint presented by Mr. Davids and as Venkata Row ought not to have purchased land without his permission Venkata Row introduced the Munsiffs name that he (Dy. Commissioner) warned him against unnecessary introduction of the Munsiffs name

name, that the witness persisted in it, that he considered it too serious to be lightly passed over, that he ordered the Sheristedar to take the witness to his room and to reduce it to writing, that the Sheristadar brought the statement and Venkata Row before him, that he asked Venkata Row to read it himself and to say if it was right, and that Venkata Row readily put his signature. Mr. Madiah says that, as the Munsiffs' name was introduced and as the matter had to be left to the Chief Court, he did wish to make it public or to keep office copies and that he despatched all the papers to the Chief Court

The Munsiff seemed inclined to insinuate that the Deputy Commissioner was not well-disposed towards him and his impartiality was not above suspicion The Deputy Commissioner stated that he gave an appointment to Venkata Row upon the Munsiffs recommendation though Venkata Row

was

was only a Munchy he used to bring the Amzerar papers for orders that he had appointed and promoted others upon the Munsiffs recommendation and that he had very strongly recommended the Munsiff to the Chief Court and to the Government for an appointment as assistant Commissioner

If Venkata Row repeated in this Court the statement he had made in the Deputy Commissioners Office, the question would still arise whether his statement could be acted upon As I have stated in my first report, he could not have purchased the property on his own account If he had purchased for any body other than the Munsiff the receipt could have been produced I suspect that the receipt and the conveyance if any bears the Munsiffs initials and it is probably this which accounts for the non- production

The

The evidence of other witnesses does not call for special remarks.

The Mmsrs ff made an application on the last day of enquiry that I ought not to have Examined the Deputy Commissioner and that I ought not to examine the Amildar and the Shenstedar to show that Venkata Rows statement before the Deputy Commissioner was free and voluntary I wish to refer my colleagues to the order passed thereon on 8th August

I have not passed an order in regard to Venkat Row Mr Hayes wishes to be heard on behalf of that witness

(Signed) A. Ramachandra Iyar
Judge

11 August 1894.

True copy

Iyer
Registrar.

Dy Registrar.
Doing duty as Registrar

Enclosure 6 (6/2) 5-2

P. L. Krishna Murti Esquire This enquiry which was held under the provisions of the Civil Court Regulation has given me much anxious thought The first question which was argued before us was whether we ought to be bound by the rules of the Evidence act or any relaxation of such rules might be permitted The Government Advocate was inclined in the latter direction while for the Munsiff it was contended that the admission of evidence in this enquiry must be regulated by the Evidence Act I am of opinion that we ought not to deny ourselves the benefit of the rules established by the experience of ages and when matters involving human lives and liberty are decided in accordance with such rules we need have no hesitation to be guided by them in this enquiry

Judged by the rules of the Evidence Act Nachi Venkata Rao's statement before the Deputy Commissioner of Kolar appears to me to be inadmissible as evidence against Munsiff Timma Krishna Rao. For purposes of contradicting

his

his evidence before this Court it has been already held that the statement could be admitted. But there its value ceases. It can discredit the witnesses' statement in this Court but it cannot be substituted for it as legal evidence with any probative force. This was the ruling laid down by this Court in Criminal appeal 102 of 1892, and I feel bound by it to reject Venkata Rao's statement before the Deputy Commissioner of Kolar.

In this connection I feel called upon to express my emphatic dis-approbation of the Munsiff's conduct in trying to discredit Mr. Madiah's testimony and imputing motives to that officer. He was very ill-advised in doing so, and it seems scarcely necessary that I should state that Mr. Madiah was actuated by no motives other than those which he owed to his responsible position as the Government representative at the Head of a District. If he had not done what he has done he would certainly have laid himself open to censure.

J

I See nothing at all to discredit the testimony of Anuldar Hema Hanmantayya and I can detect nothing but an honest and loyal discharge of his duties in connection with his investigation of this case Mr Timma Krishna Rao would certainly have acted to his advantage if he had not descended so low as to impute groundlessly motives of enmity to his Superior who had by his own admission earned his gratitude for kindnesses bestowed upon him and to his brother officer with whom he has been on friendly terms This feature in this case I am disposed to view as an aggravating circumstance I do not for a moment believe that Venkata Rao was threatened to make a false statement before the Deputy Commissioner but for the reasons already given his statement is inadmissible except for the purpose of contradicting him and discrediting his evidence in this Court

The 2nd witness Raghavendra Rao does not give any useful evidence, What he heard

from

from Venkata Rao is hearsay and madmis sible He says that Venkata Rao wrote a letter in Kanarese and he also wrote in English. He did not say that he despatched any letter. He probably gave what he wrote to Venkata Rao and the latter made inconsistent statements saying at one time that he had despatched it and at another that he had not done so. The munsiff denied the receipt of any letter from either of these - and this evidence does not help us to get near the truth

We must for similar reasons reject the evidence of those witnesses who say that they heard from the razor that the plantation was to be bought by the munsiff apart from the objection that these witnesses speak from hear-say their evidence in the first place has not been corroborated by the razar and in the second place comes from two persons Venkata Reddi and Moonegowda both of whom had appeared without success in the munsiffs court. The former had his suit dismissed and the latter had come as a witness for a woman

and

and attempted to bring about a compromise but did not succeed. The decree was obtained by the husband of the woman The Munsiff can with good reasons it seems to me, object to act upon this evidence

There is thus no direct legal evidence against the Munsiff. Munigowda and another witness Hadu Setty stated also that they saw the hazar and other peons of the Munsiffs Court Supervising some work on this plantation after its Sale. The learned Judge who recorded their evidence thought the former was straightforward and the latter honest. I cannot see any reason to distrust this evidence and if it is believed it furnishes a very strong link of evidence which the Munsiff has failed to explain It directly connects him with the plantation

Another fact of the same species is what has been spoken to by witness Narayen Rao His evidence does not seem to me to be open to any objection He accompanied the Munsiff and both inspected the plantation together. The avowed

purpose

purpose for which they started was to see a village which Narayen Rao was about to sell But it is unaccountable that this was not visited at all Venkata Rao was also one of the party and the plantation was inspected. It was noticed that the man in charge did not work well. Munsiff asked the witness if he could engage a man to look after the plantation and he engaged Ranje gowda This Ranjegowda has not been examined The Munsiff himself admitted before the Deputy Commissioner of Hassan that he saw the plantation where improvements had been effected. He has not explained why he went there at all and the circumstance judged by the evidence of Narayen Rao affords another link against the Munsiff If it is at the invitation of Venkata Rao that he went to see his plantation it seems inexplicable why this Munsiff should have spoken in such uncertain tone before the Deputy Commissioner of Hassan as if he did not know whether it was Bhaskar or Venkata Rao who had bought it I must confess that the Munsiffs conduct in this connection is not quite satisfactory

I am inclined to believe Hema Hanoomantayya

altogether

altogether He furnishes another link and that is when the Munsaff was asked about the Kandayem he wanted the Shanbogue to be sent When the latter went with his son the munsaff paid Venkata Rao some money and the latter sent to the Shanbogue. There are no doubt discrepancies between the statements of the Shanbogue and his son but the latter is said to have been in trepidation and probably did not know what he stated in his nervousness The main fact however that the munsiff interested himself in the payment of the Kandayem appears to my mind to have been very satisfactorily proved.

I do not attach any importance to the visit paid by the Munsiffs wife to the plantation. It is unfortunate that this incident was at all introduced into this case. The Munsiff was himself absent from Kolar. The lady was on her way from some other place and her staying there was not incompatible with the ownership of Venkata Raos wife who was admittedly her friend This fact even if relevant, has no value at all in judging of this case

case so far stands thus There is no

direct

direct evidence against the munsiff. He is shown however to have committed certain acts which unmistakably show his interest in the plantation. He went and saw it. He concerned himself about the payment of its Kandayem. He wanted a good Supervisor to look after the garden. His own officials supervised the repair of the hedge &c and the munsiff has himself admitted that when he saw it the plantation bore signs of recent improvement. With the exception that he has now in his written statement denied all these acts he has not offered any explanation whatever. On the contrary he feigned ignorance as to whether Venkata Rao or Chlachar had bought it. I am constrained to believe that the munsiff has suppressed and withheld the knowledge which he has with him, and the inference is therefore inevitable that such information if divulged will be prejudicial to himself

Venkata Rao is avowedly a dependent and friend of the munsiff. He was writing letters of "yogakshema to and receiving similar

courtesies

Courtesies from the munsiff. When he wanted
buy the plantation he consulted the mun-
siff Venkata Rao has strenuously with
held the sale certificate, receipt and other
papers we would not produce them a
man who once and perhaps innocently
(thou knowing the consequences mentioned
the name of the munsiff to the Deputy Com-
missioner of Kolar is now trying his utmost
to nullify the effect of his statement after he
knew the serious consequences thereof. The risk
of a criminal prosecution for giving false
evedence has not shaken his resolution to be-
friend the munsiff to whose kindness he
avowedly owes his present position Such
a man withholding the most material papers
in this case is a very suspicious feature
If they are produced they will go a great way
to clear the complicity of the munsiff. Their

Suppression

suppression on the other hand lends much force to the suspicion against him. The power to clear this is in a friend of the munsiff and nevertheless their suppression is persisted in. It cannot be helped, if under these circumstances presumptions unfavourable to the munsiff are raised in the case and the munsiff has himself to blame if he has to suffer the consequences thereof.

The amildar's valuation of the plantation is not more than 300 and in a Court sale the price of 150 Rs is not very low. I cannot readily believe that in this respect the property was purposely under sold. The omission to insert the razar's valuation is perhaps a mistake which occurs almost every day. If there is a circumstance in the case from which an inference adverse to the munsiff can be drawn it is his over caution. It seems to

me

me that having a design to become possessed of the property he conducted the sale with more than ordinary care and allowed the sale to go on for fine days. He got his friend to buy it and possibly and very probably wanted to make the interest which was thus brought very secure and quite unassailable, I fail to see any dishonesty in the matter of price

My conclusions then are that though there is no direct evidence of the Munsiff having purchased the property for himself yet the munsiffs acts in reference to it are such as could be compatible only with his ownership thereof Otherwise his active concern with it can not be explained If such explanation

is possible and forthcoming it was incumbent upon the Munsiff to have produced it and his omission to do so is a circumstance which leaves his straightforwardness and truthfulness enshrouded in great doubt

An judge's character must be above the faintest suspicion and when there is such a strong suspicion almost approaching conviction attached to his conduct, I must do my duty, painful though it may be and declare that Timmakrishna Rao is not fit to remain as Munsiff.

(Signed) P. N. Krishna Murti
Judge

True Copy
Bapatla 2nd
Dy. Registrar
doing duty as Registrar

A. Ramachandra Iyar Esqre:- Muchu Venkata Row ventured to state on oath that it was he who purchased the property and paid for it and that the Munsiff had absolutely no interest in it I have no doubt whatever that the man gave deliberately false evidence before the Court I was compelled to remark at the foot of his deposition that he was reluctant to give evidence and that he would not give straight ~~-forward~~ answers A man in his position was not likely to think of a plantation and his evidence satisfies me that he could not have paid for it He was compelled to sell his wife's jewels to discharge his father's debts The statement that he sold more jewels than what was absolutely necessary that what was left after discharging the debt was invested in the plantation was uncorroborated and appeared improbable The

man

man would not say who were his creditors, or what amount he paid or what was the remainder left for investment The most suspicious part of the case is his unwillingness to produce the receipt which he obtained from the Court when he paid twenty-five percent of the purchase-money and the conveyance which he subsequently obtained from the Court A man of his position and means could not have mislaid the documents or parted with them if he was the actual owner of the property; and I am not able to get rid of the suspicion which I entertained at the beginning of the enquiry that the documents bear the signatures or initials of the Munsiff and that they have been advisedly suppressed.

If the Statement that the Muchy was the owner of the property is thrown out of consideration as quite

quite unworthy of belief the relation which subsisted between him and the Munsiff and the other circumstances which have been fully noticed by Mr. Krishna Murti are sufficient to raise a well-grounded suspicion if not a conviction in my mind that it was the Munsiff who purchased the land and paid for it and subsequently improved it at his expense.

If the Munsiff admitted the fact of purchase and offered an explanation of his conduct I was inclined to take a lenient view As that has not been his line of defence and as I have found the circumstances point to the conclusion that he purchased the property I am forced to declare that he is not fit to be entrusted with the honorable duties of a gudge

(Sd) A Ramachandra Iyar
Judge

True Copy
Dy. Registrar
Dy. Registrar

Dy
Doing duty as Registrar

1. 67

(General Serial No. 31)

SECTION Courts

FILE No. 1397-93

SER'AL No. 6/1

CAMP OFFICE OF THE DEWAN OF MYSORE

REG. NO. 12

188 Mysore

DATE 23rd Sept 94

From Mr T. Shamiah Shastri Row, B.A; B.L. Tadeli, Munsiff of Hassan, Bangalore

To The Chief Secretary to the Dewan of Mysore

Dated 22-9-94

Despatched

Received

Enclosures No.

General No.

No.

Telegram

Begs Suspension of final orders pending receipt of Memorial early.

Class. INDIAN TELEGRAPH. Monthly Book No.

To Bangalore

Station Mysore

Words.	Day.	Hour.	Minute.	Official Instruction.
24	22	7	7	

To (Person) T Ananda Rao Esq

From (Person) A Tupman Esq Secretary

1 Chief Secretary

2 Native Government

3

5 Re Suspension of

6 final order taking

7 receipts of Imperial

8 early

9

10

11 Mysore 22-8-24

12

13

14

Recd. from	L. N.	Sent to	L. N.
At Hrs.	Mts. By	At Hrs.	Mts. By

Date Postmaster.

RATES OF CHARGE FOR INLAND TELEGRAMS.

The address (including name of Sender, name and residence of Addressee)

	For the first ...	For additional word.
Deferred Message ...	8 As. ...	1 Anna.
Ordinary " ...	1 R. ...	2 Annas.
Urgent " ...	2 Rs. ...	4 Annas.

A group of 5, or less figures, is reckoned as one word.

No charge for delivery within a distance of 5 Miles.

The Memorial Sh^d be submitted before Saturday next, on which Day at 2 P.M. the Dewan Sahib has fixed for hearing you

[illegible]

68

[Gen. Serial No. 31.]

SECTION Courts 1894

FILE No. 179 of 93.

SERIAL No. 7 From the Chief Secretary to the Dewan of Mysore.

To Mr H. Thimma Rustum
Asst Supdt - Lately
Munsiff of Hassan -
Dated 23rd Sept/94. Bangalore

Despatched

Received

Enclosures No.

Camp
~~General~~ No. 87.
No.

Your telegram dated yesterday requesting that final orders in your case may be suspended pending receipt of your memorial has been duly received Your memorial should be submitted before Saturday next which day at 2 PM the Dewan has fixed for hearing your appeal

Camp 24 Sept 94

Camp No: 152 & 27-9-94

69

(11)

SECTION Courts

FILE No. 179 of 93.

SER'AL No. 9.

To

The Deputy Court

Kolar

With reference to certain charges of
Mamm/s Timme Krishna Rao in regard
to an alleged ~~Clandestine~~ Benami purchase
of a land in Court Sale by
Muchu Venkata Rao the Deputy Court
is requested to call upon the said
Muchu Venkata Rao by written notice
to produce forth
with the receipts and ~~and~~ in proofs of
purchase money & Certificate
Sale granted by the Court for the
Sale aforesaid and to report
the result of Such requisition as
quickly as possible

26/9/94

Camp 27/9/94

To [illegible]

(11)

Camp No 152

Dt. Mysore, 27th Sept. 1924

To

The Deputy Commr
Kolar Dist

With reference to certain charges against Munsiff Timmakrishna Row in regard to an alleged Benami purchase of a land in a Court sale by Muchi Venkat Row the Deputy Commissioner is requested to call upon the said Muchi Venkat Row by written notice to produce forthwith the receipts for payments of purchase money and Certificate of sale granted by the Court for the sale

sake aforesaid and to
report the result of
such requisition as
quickly as possible

B C

Camp Lyndhurst A R

27/9/14

Chief Secy

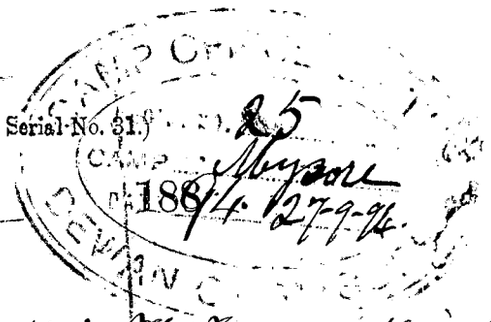
Chief of Ordnance
Pretoria Transvaal
L Van Deventer

71

SECTION Courts (General Serial No. 31.)

FILE No. 1790-93

SERIAL No. 98



From

Mr. H. Srinivasa Rao
Municipl of Hassan

To

Dated 26th Septr 1894

Despatched

Received

Enclosures No. one

General No.

No.

Submitting explanation on certain points animadverted upon by the Judges of the Chief Court in their judgment passed in his Case &c

I submit the enclosed explanation & request that I may be furnished with a copy of the judgment

Sd/ H. Srinivasa Rao

From Officer Z the Dewan Z Mysore.
Dated Mysore, 29th September 1894.
1st October

No. 184 Encl 5 & one packet-Z Recd with his letter Sept/94 sent-3/10/94

(13)

To,

The Chief Judge Z
Mysore

I have the honor to acknowledge the receipt of the Cover of the Opinions Z yourself & yr Colleagues recorded in the Enquiry held into the Conduct Z Mr Timmoo Row Tuhsildar Row, under Section 20 of the Mysore Civil Ct Regn Before the Govt Cd finally dispose of the reference made Timmoo Row to us Govt presented the Enclosed memorial D) 26 Sept 94 on receipt of the D sent-to the Dep Comr of Kolar the requisite D 27 September 1894 Ct Enclosed Book to us T & the Inquiry before us the following deeds

Acres 4-4-
Assessl No 8-12-

1 Sale certificate dated 1st Sept 1892, Z Sarl-Survey No 24 Z Lippasandra, Kolar Taluk in favor Z Venkat Rao issued by the Munsiffs Court at Kolar.

Acres 2-4-
Assessl No 4-4-

2 Sale certificate dated 23d March 1893, Z Sarl-Survey No 24 Z Lippasandra, Kolar Taluk in favor Z Venkat Rao issued by the Munsiffs Court at Kolar.
together with covering letter from Dy No 14

(junior) advocate

beg to
I forward these Docts. for the
inform of yr Majesty & Council
and to enquire whether you
& they wish to add any remarks
to the opinions already recorded
after seeing the Especially the
Sale Cert.

I have &c

Devisis

SIR, K. SESHADRI IYER, K. C. S. I.,

Dewan of Mysore.

The humble petition of H. Timmakrishna Rao, Munsiff of Hassan.

RESPECTFULLY SHEWTH,

I. That it has been the misfortune of the petitioner to have been suspected by their honors the Judges of the Chief Court, of having knowingly and wilfully acted in violation of the provisions of Section 292 of the Civil Procedure Code.

II. That under ordinary circumstances he would not have had the temerity of trying to question the correctness of the finding of that august tribunal, but that the utter lack of foundation for the charge, and the fact that the ultimate decision rests with the Government, show that the memorialist would be wanting in his duty to himself if he tacitly acquiesced in the justness of the recommendation by the Chief Court.

III. That he impeaches the correctness of the conclusion drawn by their honors the learned Judges on the following grounds—(herein succinctly stated).

(1) The 2nd and 3rd learned Judges admit that there is no direct evidence, and the learned Chief Judge has in the 4th paragraph of his order clearly shown that he bases his conclusion solely on evidence which the other Judges hold to be inadmissible.

(2) That the Chief Judge's valuation of the garden at Rs. 500 is utterly unsupported by the evidence recorded and that his honor's opinion on this matter is refuted by that of his honor the third Judge.

(3) That the attitude of mind of the Chief Judge is shown to some extent by the petitioner having been treated, against the terms of the order recalling him, as having been under suspension, and being prohibited from drawing his pay or even a subsistence allowance.

(4) That witnesses who spoke unfavourably to the case against the petitioner have been depreciated on the assumption of being bought over, while the hostile witnesses, who were brought from Kolar under the surveillance of the Amildar and the Police Inspector, and who gave their evidence in the immediate presence of these officers have had their value enhanced by remarks about their demeanour.

(5) That circumstances which distinctly favour the petitioner have been used against him; viz the petitioner's attempts to realise a higher price by the adjournment, and that the garden that had been knocked down at the first sale for Rs. 28-0-0 fetched at the last Rs. 135-8-0, have been construed by the 3rd Judge as overcaution, from which an inference adverse to the Munsiff can be drawn, the fact being that the same practice was habitually followed by the Munsiff in all cases in which he thought a better price might be realised.

(6) The non-examination of Nanjegauda who had been summoned for the prosecution which should properly count against that side has been taken by the same learned Judge to be damaging to the petitioner's case.

(7) That the non-production of the sale certificate by Venkata Rao has been, contrary to all principles of fairness and judicial evidence, taken to be damaging to the petitioner's case; whereas the fact was that, to the petitioner's knowledge Venkata Rao was never called upon to produce the said document.

(8) That the purchase of a small plantation worth a paltry sum has been assumed to be beyond the means of Venkata Rao without any proper grounds.

(9) That their honors have convicted the petitioner on grounds which their honors would be the first to pronounce as insufficient for fining a man two Rupees in an ordinary case of assault.

(10) That the Judgments of their honors the Chief and the third Judges show that the prejudice which the petitioner was unfortunate enough in raising against himself by the line of defence that he was advised to adopt in all good faith, has chiefly contributed to this result.

(11) That while all the presumptions possible have been made against him, not a single one in his favour has even been raised.

(12) That the petitioner never meant to impute any unworthy motives to Mr. Madiah and is heartily sorry if his defence created that impression; but that their honors the Judges of the Chief Court have failed to take into account the possibility that, that officer may have started the enquiry with a hastily conceived prejudice against the petitioner; and that the natural detective propensity of an executive officer might have made him gather all the circumstances that would favour his preconceived opinion, and reject all those that went against it, and that this is clear from the terms of the order he gave to the Amildar to procure evidence on the particular points laid down therein.

(13) That in estimating the value of Mr. Hema Hanumantaiya's testimony, the learned Judges did not take into consideration the anxiety of this gentleman to detect a good case in conformity with the bent of his superior's inclination; that they overlooked the extreme improbability of an Amildar going personally to demand Kandayam of a paltry amount, and after all, his testimony if anything, corroborates the petitioner's version.

(14) That the Chief Court did not take into consideration the previous blameless record of the Munsiff's service, but recommended his removal, though as his honor the second Judge admits, the case in itself deserved a more lenient view.

(15) That the Judges have made the petitioner a victim of what may be merely termed a compound suspicion,—suspicion that he might have committed a crime which after all they admit to be comparatively a venial one in itself, and a suspicion consequent on that, that he adopted a false line of defence.

(16) That the petitioner has all along been placed under heavy disadvantages in the way of conducting his case as follows:—the interrogatories, contrary to practice in similar cases, were sent to the Deputy Commissioner and not to the Munsiff and no time was given him for answers; that hostile inferences have been based on

these answers, of which even a copy was denied to the petitioner, that the petitioner was informed that all that would be evidence in the case would be recorded in his presence, but that subsequently a number of documents were loosely admitted, notwithstanding the petitioner's protest, and at the examination of Court witnesses subsequent to the closing of the case ; that in fact the petitioner was not called upon even in the Chief Court to explain anything.

(17) The petitioner has herewith appended a Statement showing his objections to the conclusion arrived at by the Chief Court in greater detail. If permitted, he will instruct counsel or appear personally to represent his case.

(18) That their honors failed to take into consideration the improbability of a young officer of the petitioner's standing ruining all his future prospects for the sake of a petty land worth about Rs. 150 at the most liberal valuation, and situated in a place to which he may never again go,—a circumstance explicable only on the supposition that the learned Judges started with assuming his guilt.

(19) The petitioner in all confidence that he will meet with a sympathetic Judgment at the hands of Government submits his case for their merciful consideration. If however it would be his misfortune that the Government would still agree with the Chief Court, he will humbly accept his fate, and if the Government should not be pleased either to continue him in his appointment, or to transfer him to another Department, he requests at least the kind favour of their allowing him to resign his service under Government.

(20) For the above kindness, the petitioner shall ever pray.

Begs to remain

Respected Sir,

Your obedient and humble servant.

H Timmakrishna Rao

Licentiate

Bangalore

26-9-94

Bangalore

Submitted through the Under-Secretary to the Government

H. Timmakrishna

V. B. Soobbiah & Sons Printers, Bangalore,—1894.

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13/6

Detailed objections and explanations to the conclusions of the Chief Court.

POINTS RAISED.

(THE CHIEF JUDGE'S JUDGMENT.)

That the facts elicited by the evidence supported the complaint that the Munsiff himself purchased the plantation through Venkat Row.

OBJECTIONS AND EXPLANATIONS.

With the highest respect to the Chief Court, the petitioner begs to submit that an impartial view of the facts elicited goes to establish the innocence of the petitioner, rather than supporting the complaint. The only evidence against the petitioner as admitted by the Chief Judge and the third Judge, is that of four witnesses, viz., the 6th and 7th witnesses, being the discontented litigants Venkatareddi and Munireddi, the 8th witness being the acting Patel Adishetti and the 16th witness being the pauper Adinaranaiya. The third Judge has rightly disbelieved the 6th and 7th witnesses. The 7th and 16th witnesses were the tenants of Davids the complainant, and have given quite improbable evidence. The 7th witness who has been disbelieved for one point by third Judge, has been believed for another point. The 7th and 16th witnesses are not corroborating witnesses for the same point. The evidence of the Court Head Munshi and Amina Annappah that conducted the sale, examined for the petitioner, clearly shows that the 16th witness Adinaranaiya cannot but be a perjurer. He deposed having been present at the sale without a pie in his hand, the sale being alleged by this witness, to have been conducted by Amina Venkatanarsappah dead at the time of the enquiry. But the Court Registers clearly showed that Venkatanarsappah referred to by this witness did not conduct the sale but had gone to Malur side on duty. The evidence of Head Munshi and the records filed for the petitioner also show that this witness has spoken falsehood in other respects, though to the misfortune of the petitioner Chief Judge has ignored this fact, while his honor apparently believes this witness in para (5) of his Judgment. The 8th witness Adishetty has likewise admitted that he is at the mercy of the Revenue and Police Officers who not only investigated the case but watched the witnesses in and out of the Chief Court during enquiry. The evidence of this witness is contradicted by the reliable Nazir and his evidence is wholly unreliable and does not implicate the petitioner, so the facts elicited do not support the prosecution as alleged.

2. That the purchaser's inability to account satisfactorily as to how he became possessed of funds shows that he could not have bought the plantation on his own account.

2. That the price paid i. e. Rs. 135-8-0, is not above the means of a Mutchi to pay. The witness has stated how he got the money. His wife and relations are all rich and it is illegal to get over the fact of his payment of price into Court as evidenced by Public Records. This witness who was in great confusion and nervousness during examination, referred to his maternal uncle Runga Rao as having sold the jewels on his behalf, and as having met the debts and funeral charges out of the proceeds and as having given the balance of about Rs. 200-0-0, for being kept with him. If the Court doubted this witness, there was nothing to prevent the examination of the said Runga Rao to clear the doubt.

3. Statement made by Venkata Rao to the Deputy Commissioner implicates the Munsif.

3. The 2nd and the 3rd Judges have justly held that such a statement was inadmissible against the petitioner when the witness himself took objection to it, and swore to the circumstances under which he signed the same. There is internal evidence in the document itself that it has been taken under threat of dismissal for the witness having purchased the land without the Deputy Commissioner's permission. The evidence of Deputy Commissioner, Shirastedar &c., taken on remand point to the truth of the witness's statement before the Chief Court as to undue influence.

4. That the purchaser assured one Venkoba Row that he cannot reconvey the property to the owner without Munsiff's permission.

4. The evidence of Venkoba Rao is justly rejected as hearsay by the third Judge. This witness is not corroborated, and Venkata Rao contradicts him. The Deputy Commissioner in his evidence has stated that Venkoba Rao, who is the Registration Head Clerk carried complaints against the petitioner to the Deputy Commissioner as regards petitioner's appointing to the Registrar's establishment a peon not probably to the taste of this witness.

5. The Amildar deposing that he had a talk with the Munsif about the arrears of assessment due on the land, and that the Munsif asked the Amildar to send the Shanbogue, and that he promised to get the payment made by Venkata Row, showed that the Munsif was the owner of the land.

5. Even if the Amildar's evidence were true, it does not implicate the petitioner as the Amildar says that the petitioner told him that Venkat Rao was the purchaser at the time of the alleged talk, but the Amildar is not corroborated by any witness, and is contradicted by his own Shanbogues and his evidence is highly improbable.

6. That Narayana Row's evidence that the Munsif casually assented to the witness assisting Venkat Row showed that the Munsif was really interested in the plantation.

6. The petitioner has admitted the main statements of witness Narayana Rao. This witness has stated that he owns a Kodagi Tank and lands under it, for seeing which, and not the whole village, the petitioner had been taken and these were seen on that day. It is submitted that the evidence of this witness shows that Venkat Rao asked him for a ryot and not the Munsif, so the evidence of Narayana Rao does not implicate the petitioner.

7. That the non-production of the receipts for the purchase money and the Court sale certificate is open to the suspicion, and that they are withheld because they may bear the Munsif's initials or note or some remark made on the document.

7. There was nothing to prevent the Court to call upon the purchaser to produce the documents referred to. It did not do so. To make any assumption on this score is unjust. If the Government is so pleased, the purchaser may be called upon to produce the sale certificate to satisfy itself that the Chief Court has erred in its curious surmises, and assumptions.

8. That the allegation of Venkat Row that he made the Statements before the Deputy Commissioner and Amildar through pressure and undue influence and the insituation of the Munsif that both the Deputy Commissioner and Amildar were not woll disposed towards him, were without any foundation.

8. It is strange that the Chief Court should expcet a witness (who is not a party) in the position of purchaser Venkat Rao to prove his allegations made in his evidence when the question at issue was mainly between the complainant and the Munsif. This witness had no opportunity to prove his allegations as to undue influence and pressure from the nature of the case. To contradict this witness the Court on its own accord examined the Deputy Commissioner, Revenue Shirastedar and others against all principles of Law and Justice, and in face of the petitioner's protest. Even such evidence has partly strengthened the allegations of this witness.

9. That the demeanur of Venkat Row and of the Duffedar, and peons of Munsif's Court, who are said to have worked in the plantation or occasionally superintended the work did not impress the learned Judge favourably and that they seemed to him to be reluctant to disclose the truth.

9. If all witnesses are to be believed or discredited on the mere score of demeanour, any case can be proved, or any case discredited, as Government is well aware of. While allowance is made for the nervousness of the shanbogue who favours the Prosecution. Nothing is said about the state of mind of Venkat Rao either when he was examined before the Deputy Commissioner or in the highest Court in the land where the Judge at the very outset brought to his notice that perjury would render him liable to Prosecution.

10. He (the Munsif) has made his case worse by suppressing the real facts withholding the producation of the receipts and other letters he received from Venkat Row.

10. There is not aniota of evidence to show that the Munsif was in possession of any receipts or letters received from Venkat Rao, or that he received the same from him. This is fairly shown by the third Judge. This hard presumption against the petitioner is not at all justifiable, and is against the decision of the third Judge.

11. The plantation is about 4 acres in extent containing 786 casuarina trees (about 150 small ones, and the others about three years old) besides 21 Honge trees about 30 or 40 years old. The trees alone are valued at Rs. 350 by the Amildar, the land with the trees may be roughly estimated to be worth about Rs 500.

11. The learned Chief Judge seems to think that casuarina trees three years old are not small ones. They cannot be worth more than an anna or two each. The arbitrary valuation at Rs. 500 is based on no evidence. The Amildar who got a Mahazir made for the value of the property in March 1894, i.e., nearly two years after the sale and nearly a month after the order for enquiry into this case was passed, was interested in putting the highest possible value on the property in question, and he himself did not give a higher value than Rs. 350, as the value at the time of his inspection. It should have been much less at the time of the sale, two years before. The so-called plantation was not worth more than Rs. 150 in August 1892, when

the sale took place, can be clearly made out by the Amin's and Panchayets valuation of it at Rs. 25, the Nazir's valuation of it at Rs. 140, Plaintiff's valuation of it at Rs. 80 in the plaint, and Rs. 100 in his evidence before the Chief Court, and the complainant's own admission that he had bought the land with the Honge trees on it for Rs. 25 as lately as August 1888, and that he planted about 700 casuarina plants and reared the same at almost no cost.

12. "The Munsif appears to have deputed the Nazir to enable him to give instructions to Venkata Rao up to what sum he should bid for the property."

12. To construe the attempt of the Munsif if any, for knowing the value of the property before concluding the sale, in this light is really cruel: The Execution records will clearly show that the Munsif had issued an order to the Nazir to ascertain the value and other details of the property before the 2nd sale. This fact and the fact that the sale was continued for 5 days ought to have been construed in favour of the Munsif, and being counted against him shows the bias with which the Judges seem to have started. The Arguments of the Chief Judge on this point are also met by the third Judge.

13. "The 7th witness and the 8th witness Adishetty state that they actually saw the Munsif's peons working in the plantation and giving directions to the coolies."

13. These are two of the witnesses referred to in explanation No. (1.) The 7th witness has been rightly discredited by his honor the third Judge. The 8th witness Adishetty is a Patel's grandson who admits that the Police forced him to give evidence. He is moreover an instrument of the Taluk Officers. He is uncorroborated as already submitted. No peon or other official supports him, and in the absence of such evidence there is nothing to connect the Munsif with the work in the plantation if any, and the evidence of 16th witness is worthless if viewed without bias, for the reasons already given. So the Petitioner begs to state that there is no reliable evidence on which to base the opinion of the Chief Judge.

JUDGMENT OF THE THIRD JUDGE.

14. The Munsif himself admitted before the Deputy Commissioner of Hassan, that he saw the Plantation where improvements had been effected.....It seems inexplicable why this Munsif should have spoken in such uncertain tone as if he did not know whether it was Oblachar or Venkat Rao, who had bought it.

14. In this connection the petitioner has already stated in his petition, how he was taken by surprise. He however stated to the Deputy Commissioner the name of the real purchaser, and the fact of the petitioner's having visited the plantation and as he had to answer questions contained in the interrogatories, as put to him by the Deputy Commisssioner he was not able to state all what he has mentioned in his statement to the Chief Court, filed of his own accord.

15. When the latter (Shanbhogue) went with his son, Munsif paid Venkat Rao some money and the latter paid it to the Shanbogue. There are undoubt discrepancies between the Statements of shan-

15. The discrepancy referred to by the learned Judge is such as to affect the truth of the statements made. This is one of the instances where worthless evidence has been relied upon with an excuse for so doing. The accounts filed by the Shanbogues show that the purchaser paid the Kandayam and

bogue and his son. But the latter is said to have been in trepidation and probably did not know what he stated in his nervousness. The main fact however that the Munsif interested himself in the payment of the Kandayam appears to my mind to have been very satisfactorly proved.

JUDGMENT OF THE SECOND JUDGE.

16. "If the Statement that Mutchi was the owner of the plantation is thrown out of consideration, the relation which subsisted between him and the Munsif..... raise a well grounded suspicion."

the allegations of the Shanbogues cannot be true on their very face.

16. The ability of the Mutchi to buy this small property is wrongly doubted. It is unfair and illogical to hold that the Munsif should have paid for the property, if Venkata Rao was not able to find means. Why his wife's funds or relatives' funds should not have been utilized cannot be understood. It is an oft repeated principle of law, that the evidence in such cases should be beyond all reasonable doubt for a conviction; and this has been recently repeated by the Allahabad High Court in the case reported on page 266, XVI. All. I. L. R. It is laid down that the standard of proof in a criminal case is not the same as in an ordinary civil case. No conviction should be arrived at unless upon clear, cogent, and coherent evidence, which leaves upon the mind no substantial doubt. (XVI. Allahabad 266). But in this case, conviction has been arrived at on matters which is absolutely inadmissible in the most ordinary civil case. So the petitioner begs that the Government will be pleased to reconsider the whole case.

H. TIMMAKRISHNA RAO,
Petitioner.

V. B. Soobbiah & Sons Printers, Bangalore,—1894.

Agreed to the
by Lalame and
Weekly Court
27 Sept 1894
Mysore

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SIR. K. SESHADRI IYER, K. C. S. I.,

Dewan of Mysore.

The humble petition of H. Timmakrishna Rao, Munsiff of Hassan.

RESPECTFULLY SHEWTH,

I. That it has been the misfortune of the petitioner to have been suspected by their honors the Judges of the Chief Court, of having knowingly and wilfully acted in violation of the provisions of Section 292 of the Civil Procedure Code.

II. That under ordinary circumstances he would not have had the temerity of trying to question the correctness of the finding of that august tribunal, but that the utter lack of foundation for the charge, and the fact that the ultimate decision rests with the Government, show that the memorialist would be wanting in his duty to himself if he tacitly acquiesced in the justness of the recommendation by the Chief Court.

III. That he impeaches the correctness of the conclusion drawn by their honors the learned Judges on the following grounds—(herein succinctly stated).

(1) The 2nd and 3rd learned Judges admit that there is no direct evidence, and the learned Chief Judge has in the 4th paragraph of his order clearly shown that he bases his conclusion solely on evidence which the other Judges hold to be inadmissible.

(2) That the Chief Judge's valuation of the garden at Rs. 500 is utterly unsupported by the evidence recorded and that his honor's opinion on this matter is refuted by that of his honor the third Judge.

(3) That the attitude of mind of the Chief Judge is shown to some extent by the petitioner having been treated, against the terms of the order recalling him, as having been under suspension, and being prohibited from drawing his pay or even a subsistence allowance.

(4) That witnesses who spoke unfavourably to the case against the petitioner have been depreciated on the assumption of being bought over, while the hostile witnesses, who were brought from Kolar under the surveillance of the Amildar and the Police Inspector, and who gave their evidence in the immediate presence of these officers have had their value enhanced by remarks about their demeanour.

(5) That circumstances which distinctly favour the petitioner have been used against him; viz:—the petitioner's attempts to realise a higher price by the adjournment, and that the garden that had been knocked down at the first sale for Rs. 28-0-0 fetched at the last Rs. 135-8-0, have been construed by the 3rd Judge as overcaution, from which an inference adverse to the Munsiff can be drawn, the fact being that the same practice was habitually followed by the Munsiff in all cases in which he thought a better price might be realised.

(6) The non-examination of Nanjegauda who had been summoned for the prosecution which should properly count against that side has been taken by the same learned Judge to be damaging to the petitioner's case.

(7) That the non-production of the sale certificate by Venkata Rao has been, contrary to all principles of fairness and judicial evidence, taken to be damaging to the petitioner's case; whereas the fact was that, to the petitioner's knowledge Venkata Rao was never called upon to produce the said document.

(8) That the purchase of a small plantation worth a paltry sum has been assumed to be beyond the means of Venkata Rao without any proper grounds.

(9) That their honors have convicted the petitioner on grounds which their honors would be the first to pronounce as insufficient for fining a man two Rupees in an ordinary case of assault.

(10) That the Judgments of their honors the Chief and the third Judges show that the prejudice which the petitioner was unfortunate enough in raising against himself by the line of defence that he was advised to adopt in all good faith, has chiefly contributed to this result.

(11) That while all the presumptions possible have been made against him, not a single one in his favour has even been raised.

(12) That the petitioner never meant to impute any unworthy motives to Mr. Madiah and is heartily sorry if his defence created that impression; but that their honors the Judges of the Chief Court have failed to take into account the possibility that, that officer may have started the enquiry with a hastily conceived prejudice against the petitioner; and that the natural detective propensity of an executive officer might have made him gather all the circumstances that would favour his preconceived opinion, and reject all those that went against it, and that this is clear from the terms of the order he gave to the Amildar to procure evidence on the particular points laid down therein.

(13) That in estimating the value of Mr. Hema Hanumantaiya's testimony, the learned Judges did not take into consideration the anxiety of this gentleman to detect a good case in conformity with the bent of his superior's inclination; that they overlooked the extreme improbability of an Amildar going personally to demand Kandayam of a paltry amount, and after all, his testimony if anything, corroborates the petitioner's version.

(14) That the Chief Court did not take into consideration the previous blameless record of the Munsiff's service, but recommended his removal, though as his honor the second Judge admits, the case in itself deserved a more lenient view.

(15) That the Judges have made the petitioner a victim of what may be merely termed a compound suspicion,—suspicion that he might have committed a crime which after all they admit to be comparatively a venial one in itself, and a suspicion consequent on that, that he adopted a false line of defence.

(16) That the petitioner has all along been placed under heavy disadvantages in the way of conducting his case as follows:—the interrogatories, contrary to practice in similar cases, were sent to the Deputy Commissioner and not to the Munsiff and no time was given him for answers; that hostile inferences have been based on

these answers, of which even a copy was denied to the petitioner, that the petitioner was informed that all that would be evidence in the case would be recorded in his presence, but that subsequently a number of documents were loosely admitted, notwithstanding the petitioner's protest, and at the examination of Court witnesses subsequent to the closing of the case ; that in fact the petitioner was not called upon even in the Chief Court to explain anything.

(17) The petitioner has herewith appended a Statement showing his objections to the conclusion arrived at by the Chief Court in greater detail. If permitted, he will instruct counsel or appear personally to represent his case.

(18) That their honors failed to take into consideration the improbability of a young officer of the petitioner's standing ruining all his future prospects for the sake of a petty land worth about Rs. 150 at the most liberal valuation, and situated in a place to which he may never again go,—a circumstance explicable only on the supposition that the learned Judges started with assuming his guilt.

(19) The petitioner in all confidence that he will meet with a sympathetic Judgment at the hands of Government submits his case for their merciful consideration. If however it would be his misfortune that the Government would still agree with the Chief Court, he will humbly accept his fate, and if the Government should not be pleased either to continue him in his appointment, or to transfer him to another Department, he requests at least the kind favour of their allowing him to resign his service under Government.

(20) For the above kindness, the petitioner shall ever pray.

Begs to remain

Respected Sir,

Your obedient and humble servant.

H. Jamindar Krishna Rao

Chickpet

Bangalore

26th September 94

Bangalore

V. B. Soobbiah & Sons Printers, Bangalore,—1894.

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Detailed objections and explanations to the conclusions of the Chief Court.

POINTS RAISED.	OBJECTIONS AND EXPLANATIONS.
(THE CHIEF JUDGE'S JUDGMENT.) That the facts elicited by the evidence supported the complaint that the Munsiff himself purchased the plantation through Venkat Row.	With the highest respect to the Chief Court, the petitioner begs to submit that an impartial view of the facts elicited goes to establish the innocence of the petitioner, rather than supporting the complaint. The only evidence against the petitioner as admitted by the Chief Judge and the third Judge, is that of four witnesses, viz., the 6th and 7th witnesses, being the discontented litigants Venkatareddi and Munireddi, the 8th witness being the acting Patel Adishetti and the 16th witness being the pauper Adinaranaiya. The third Judge has rightly disbelieved the 6th and 7th witnesses. The 7th and 16th witnesses were the tenants of Davids the complainant, and have given quite improbable evidence. The 7th witness who has been disbelieved for one point by third Judge, has been believed for another point. The 7th and 16th witnesses are not corroborating witnesses for the same point. The evidence of the Court Head Munshi and Amina Annappah that conducted the sale, examined for the petitioner, clearly shows that the 16th witness Adinaranaiya cannot but be a perjurer. He deposed having been present at the sale without a pie in his hand, the sale being alleged by this witness, to have been conducted by Amina Venkatanarsappah dead at the time of the enquiry. But the Court Registers clearly showed that Venkatanarsappah referred to by this witness did not conduct the sale but had gone to Malur side on duty. The evidence of Head Munshi and the records filed for the petitioner also show that this witness has spoken falsehood in other respects, though to the misfortune of the petitioner Chief Judge has ignored this fact, while his honor apparently believes this witness in para (5) of his Judgment. The 8th witness Adishetty has likewise admitted that he is at the mercy of the Revenue and Police Officers who not only investigated the case but watched the witnesses in and out of the Chief Court during enquiry. The evidence of this witness is contradicted by the reliable Nazir and his evidence is wholly unreliable and does not implicate the petitioner, so the facts elicited do not support the prosecution as alleged.

2. That the purchaser's inability to account satisfactorily as to how he became possessed of funds shows that he could not have bought the plantation on his own account.

2. That the price paid i. e. Rs. 135-8-0, is not above the means of a Mutchi to pay. The witness has stated how he got the money. His wife and relations are all rich and it is illegal to get over the fact of his payment of price into Court as evidenced by Public Records. This witness who was in great confusion and nervousness during examination, referred to his maternal uncle Runga Rao as having sold the jewels on his behalf, and as having met the debts and funeral charges out of the proceeds and as having given the balance of about Rs. 200-0-0, for being kept with him. If the Court doubted this witness, there was nothing to prevent the examination of the said Runga Rao to clear the doubt.

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3. The 2nd and the 3rd Judges have justly held that such a statement was inadmissible against the petitioner when the witness himself took objection to it, and swore to the circumstances under which he signed the same. There is internal evidence in the document itself that it has been taken under threat of dismissal for the witness having purchased the land without the Deputy Commissioner's permission. The evidence of Deputy Commissioner, Shirastedar &c., taken on remand point to the truth of the witness's statement before the Chief Court as to undue influence.

4. That the purchaser assured one Venkoba Row that he cannot reconvey the property to the owner without Munsiff's permission.

4. The evidence of Venkoba Rao is justly rejected as hearsay by the third Judge. This witness is not corroborated, and Venkata Rao contradicts him. The Deputy Commissioner in his evidence has stated that Venkoba Rao, who is the Registration Head Clerk carried complaints against the petitioner to the Deputy Commissioner as regards petitioner's appointing to the Registrar's establishment a peon not probably to the taste of this witness.

5. The Amildar deposing that he had a talk with the Munsif about the arrears of assessment due on the land, and that the Munsif asked the Amildar to send the Shanbogue, and that he promised to get the payment made by Venkata Row, showed that the Munsif was the owner of the land.

5. Even if the Amildar's evidence were true, it does not implicate the petitioner as the Amildar says that the petitioner told him that Venkat Rao was the purchaser at the time of the alleged talk, but the Amildar is not corroborated by any witness, and is contradicted by his own Shanbogues and his evidence is highly improbable.

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16. "If the Statement that Mutchi was the owner of the plantation is thrown out of consideration, the relation which subsisted between him and the Munsif..... raise a well grounded suspicion."

the allegations of the Shanbogues cannot be true on their very face.

16. The ability of the Mutchi to buy this small property is wrongly doubted. It is unfair and illogical to hold that the Munsif should have paid for the property, if Venkata Rao was not able to find means. Why his wife's funds or relatives' funds should not have been utilized cannot be understood. It is an oft repeated principle of law, that the evidence in such cases should be beyond all reasonable doubt for a conviction; and this has been recently repeated by the Allahabad High Court in the case reported on page 266, XVI. All. I. L. R. It is laid down that the standard of proof in a criminal case is not the same as in an ordinary civil case. No conviction should be arrived at unless upon clear, cogent, and coherent evidence, which leaves upon the mind no substantial doubt. (XVI. Allahabad 266). But in this case, conviction has been arrived at on matters which is absolutely inadmissible in the most ordinary civil case. So the petitioner begs that the Government will be pleased to reconsider the whole case.

H. TIMMAKRISHNA RAO,
Petitioner.

V. B. Soobbiah & Sons Printers, Bangalore,—1894.

Regd & Issued

In the Courts

(General Serial No. 630.) NO. 46

SECTION

CAMP Mysore

DATE 18th 4-10-94.

FILE No. 1799 / 93 From The Deputy Commissioner Kolar District

SERIAL No. W 10.

134

Regd & Subd
4/10/94

To

The Chief Secretary to the Dewan
of Mysore.

44197
1811½

file 4

Dated 2nd October

Despatched

Received

Enclosures No.

General No. 1318
No. 280

In reply to

SUBJECT.

Reports that the whereabouts of Muski Venkatappa are not ascertainable.

To Mr Srikantaiya for the next mtg

4/10

References (to be entered only in the Dewan's Office).

Mr Srik. Iyer.

No 1318 In Jul
280

Deputy Commissioners Office
Kolar District
Dated October 1894

To

The Chief Secretary to the
Dewan of Mysore.

Sir,

Adverting to your docket
Camp No 152 dated the 27th ultimo,
I have the honor to state that a
notice calling upon Venkatrow,
late Amildar of this office to pro-
duce the receipts for payments
of purchase money and the sale
certificate granted by the Kolar
Munsiff's court for the excavation
plantation alleged to have been
bought by him on account of
Mr Thimma Krishna Rao was sent
to the amildar of the Mulbagal
Taluk with a direction to serve
the same on Venkatrow after as-
certaining his whereabouts from
Ranga Rao Judicial Jemadar
of the Taluk who is related to
him and with whom he was
not long ago found to have been
residing but the amildar has
returned the notice unserved re-
porting that Ranga Rao is now
[illegible]
an

93

124
a

No: 2217/90

SECTION Courts

FILE NO. 179 of Bangalore

SERIAL NO. 12.

25th October 1894

From

Rajah Dharma Karma

T. R. A Thumboo Chetty Esq.

Chief Judge of Mysore.

To

Rajya Dhurandhara

Sir K. Seshadri Iyer K.C.S.I.

Dewan of Mysore

Sir,

In returning the Memorial of Timma Krishna Rao, together with the Proceedings received with your Camp No. 184 dated 29th September 1894, I have the honor to forward, for your information, Copies of the remarks record-ed by my Colleagues. I wish only

to add that I concur with Mr Ramachandra Iyar in thinking that the Sale Certificates have now been produced under such circumstances as to confirm the suspicions already entertained with regard to the cause of Non-production during the examination of Venkut-Rao.

I have the honor to be,
Sir,
Your Most Obedient Servant,

P Muniswar Chetty
Chief Judge.

Malbafal

I have the honor to be,
Sir,
Your most Obt Servant
A Marshall
Deputy Commissioner

Hon

95 14 Enclosure No 12

The only point which calls for remark is the production of the Certificates of Sale at this stage of the Proceeding. If Venkata Rau produced them at an early stage, the only question would be, whether his evidence was worthy of credit. But he stated in his evidence that he did not know what had become of them. As his position and circumstances made it impossible to believe that he could have mislaid or lost them, his inability to produce them was certainly a suspicious feature. The fact was commented upon in the course of the argument, and even then the Munsiff's Advocate did not offer to take steps to cause their production. Their production at this stage without a word of

explanation

Ex No 12 Appellant's Record 9. Record T. 12 and T. 14 in Appeal See Exhibits appended hereto 21/11/98

Their non production was the result of the suit of 25th which he laid and he had won that

explanation as to where they had been kept and where they were discovered and by whom, does not commend itself to me as straightforward.

On the left corner at the top of the document which evidences payment of Rupees 135, something X seems to have been written and scraped out, and remnants of a few flourishes are to be seen. The endorsement in red ink on the second document calls for two remarks. It does not look as if it was regularly made in the office. From the relative position of the signature and endorsement, it would seem as if an endorsement was made to account for the signature. If a document is returned to a Suitor, the fact is noted by a Munshy and it is initialled by the Head

Head Munshy. I do not understand the necessity for such an endorsement being signed by the Munsiff. The endorsement which was made upon the first document was initialled by the Head Munshy only

It has been stated in the Memorial that the evidence was so weak that a man could not be convicted upon it of even a simple offence, and that the Court was wrong in recommending the Munsiff's dismissal. Assuming that the evidence was insufficient for a conviction, I wish to observe that there is a distinction between a trial for an offence where the decision, if adverse to the accused, involves deprivation of the right of personal liberty and property, and a departmental enquiry which

simply

simply involves the question whether a public servant is worthy of the confidence of Government.

(Signed) C. Ramachandra Iyar

A true Copy

A Thumboo Chetty

Chief Judge.

99

Enclosure to PC/2

12

I wish only to state that suspicion or want of confidence in a Servant is not an insufficient ground for the employer to remove him upon his appointment. If the Munsiff is willing and offers to resign his appointment, I do not see why he should not be permitted to do so.

21-10-94. (Signed) P. N. Krishnamurti

A true Copy

T. Thambar Chetty

Addl Judge.

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SECTION—Cons 5

FILE No. 1790/93

No. of Enclosures 13

Bangalore
Nov 1894

(14)

I return with thanks the draft order which you propose to pass in re Muff Timma Kistna Rao

In reply to do which I have no Objs

As Timma Kistna Rao has sent in his resignation subsequent to the submission of the result of the enquiry made under the orders of Govt and of the Chief Cs recommendation for the removal of Timma Kistna Rao from the office of Muff. Mopla it would look as if Govt simply accepted the resignation without reference to the correspondence

which has taken place between
Govt and the Chief Ct.
I would, therefore, suggest a slight
modification of the order to the
effect, that as before final orders
could be passed on the re
commendation of the Chief Comt
Jimma Krishna Rao has sent in
his resignation, the Govt accept
it with effect from the date
on which he has been relieved
of his duties pending enquiry
ordered in Pro No — of —

A bland order in the terms
proposed by you, without any
reference to the correspondence before
Govt, would look as if Govt

said ~~signed~~ the enquiry held and the recommendation made by the Judges altogether

Then again the grant of full pay, for the period during which Jimma Krishna Rao was not allowed to do any work, would be regarded as if he has been honourably acquitted of the charge preferred against him, within the meaning of s 135(b) of the Mysore Service Regulations. Jimma Krishna Rao was relieved of his duties by the substitution of another officer temporarily there was, therefore, actual suspension on duty pending result of the enquiry. The grant of a subsistence allowance a moiety of pay, as

104.

SECTION Courts

25 96
100

FILE No. 179 of 95 Bangalore 14th November 1894.

SERIAL No. 13

(16)

From

The Chief Judge
of Mysore.

To

Rajya Dhurandhara
Sir K. Shashadri Iyer, K.C.S.I.
Dewan of Mysore.

Sir,

In reply to your letter No. A dated 12th November 1894, I have the honor to state that, as, before Government could pass orders on the result of the enquiry held into the misconduct imputed to Munsiff, Timma Krishna Rao, the latter has sent up his resignation to Government on 4th instant, I and my Colleagues have no objection to the resigna-tion being accepted. But, as regards the question, as to whether he should be allowed pay or subsistance allowance under the Rules, I beg to inform you that, as soon as he was relieved of his duties as Munsiff, pending

enquiry

enquiry, he applied for full pay through the Comptroller, and he was informed that the grant of pay or subsistence allowance to him will be decided after the result of the enquiry is known. It is a matter which is left for the decision of Government under the Mysore Service Regulations.

I have the honor to be
Sir,
Your Most Obedient Servant,

A Thumboo Chetty
Chief Judge.

MR

No. 2:8 & Camp Mysore
D.A.G. 109 19 November 94

Read letter
No. 2596
Dewan's 100 letter

SECRETE Cheque Judge
FILE NO. Court 9 of 93 Revenue
No A 3 17 November 1894
SER AL NO 15th Nov 1894

(17)

The resignation submitted by Mr
Tirumu Kristna Rao in his letter of the
4th instant is accepted as recommended by
the Chief Court in the Chief Judge's letter No. 2596/100 of 14 Idem

2. Mr Tirumu Kristna Rao applies for
arrears of Salary from the date on
which he was relieved of his duties
as Mutt of Hassan. It appears
from the Chief Judge's letter of 10 Feb 94
and the orders passed thereon of the 13th Idem
that Tirumu Kristna Rao was not
formally suspended. and that He is
therefore entitled to the arrears of
pay claimed & the Comptroller will
accordingly be authorized & requested
the same kept to his credit this date by
the Secretary of State 4 Nov 1894

15/11/94

Mr. Cox & Rept Chief Court

— to Comptroller

— to Tirumu Kristna Rao with
Ch. Judge's papers produced by him before
the Dewan on 19 Sept '94

Sent to Mr. Krishnaraja
Rao Bahadur
forwarded
Dewan on 17/11/94